

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
PRIMED PHARMACEUTICALS, LLC,

Plaintiff,

-v-

STARR INDEMNITY & LIABILITY COMPANY,

Defendant.

CIVIL ACTION NO.: 21 Civ. 1025 (PGG) (SLC)

ORDER

SARAH L. CAVE, United States Magistrate Judge.

Pursuant to the Telephone Conference held today, August 23, 2021, the Court Orders as follows:

- 1) The letter-motion by Plaintiff Primed Pharmaceuticals, LLC (“Plaintiff”) to preclude discovery on extrinsic evidence supporting Defendant Starr Indemnity & Liability Company’s (“Starr”) prior publication exclusion (the “Motion” (ECF No. 32)) is GRANTED IN PART AND DENIED IN PART as set forth below.
 - a. The Court will permit narrow discovery into extrinsic evidence concerning “advertising” and “advertising activities” by Primed before November 15, 2014. See Value Wholesale, Inc. v. KB Ins. Co., 450 F. Supp. 3d 292 (E.D.N.Y. 2020); Polarome Int’l, Inc. v. Greenwich Ins. Co., 404 N.J. Super. 241 (N.J. App. Div. 2008). Accordingly, the parties shall promptly meet and confer concerning the scope of discovery concerning Primed’s “advertising” and “advertising activities” prior to November 15, 2014, including (but not limited to):

- i. Deposition testimony and exhibits of Matthew Zeigler;
- ii. Statements concerning Primed in the Statement of Undisputed Facts,
as well as exhibits concerning Primed;
- iii. Exhibits to the Reports of Dr. Gregory Bell.

A Telephone Status Conference concerning the scope of discovery is scheduled **Thursday, September 9, 2021 at 11:00 am** on the Court's conference line. The parties are not required to file a status report or letter in advance of the conference, but if they elect to do so, they shall submit a single filing, no longer than six pages, by **Tuesday, September 7, 2021**. The parties are directed to call: (866) 390-1828; access code: 380-9799, at the scheduled time. If following a meet and confer the parties agree concerning the scope of discovery, such that they believe this conference is no longer required, they may submit a joint application to cancel the conference at least 48 hours in advance.

The Clerk of Court is respectfully directed to close ECF No. 32.

Dated: New York, New York
August 23, 2021

SO ORDERED.



SARAH L. CAVE
United States Magistrate Judge